

§ 170.555

applicable certification criterion or certification criteria adopted by the Secretary at subpart C of this part.

§ 170.555 Certification to newer versions of certain standards.

(a) ONC-ACBs may certify Complete EHRs and/or EHR Module(s) to a newer version of certain identified minimum standards specified at subpart B of this part if the Secretary has accepted a newer version of an adopted minimum standard.

(b) *Applicability of an accepted newer version of an adopted minimum standard.*

(1) ONC-ACBs are not required to certify Complete EHRs and/or EHR Module(s) according to newer versions of an adopted minimum standard accepted by the Secretary until the incorporation by reference provision of the adopted version is updated in the FEDERAL REGISTER with a newer version.

(2) Certified EHR Technology may be upgraded to comply with newer versions of an adopted minimum standard accepted by the Secretary without adversely affecting the certification status of the Certified EHR Technology.

§ 170.557 Authorized certification methods.

An ONC-ACB must provide remote certification for both development and deployment sites.

§ 170.560 Good standing as an ONC-ACB.

An ONC-ACB must maintain good standing by:

(a) Adhering to the Principles of Proper Conduct for ONC-ACBs;

(b) Refraining from engaging in other types of inappropriate behavior, including an ONC-ACB misrepresenting the scope of its authorization, as well as an ONC-ACB certifying Complete EHRs and/or EHR Module(s) for which it does not have authorization; and

(c) Following all other applicable Federal and State laws.

§ 170.565 Revocation of ONC-ACB status.

(a) *Type-1 violations.* The National Coordinator may revoke an ONC-ACB's status for committing a Type-1 violation. Type-1 violations include viola-

45 CFR Subtitle A (10-1-11 Edition)

tions of law or permanent certification program policies that threaten or significantly undermine the integrity of the permanent certification program. These violations include, but are not limited to: False, fraudulent, or abusive activities that affect the permanent certification program, a program administered by HHS or any program administered by the Federal government.

(b) *Type-2 violations.* The National Coordinator may revoke an ONC-ACB's status for failing to timely or adequately correct a Type-2 violation. Type-2 violations constitute non-compliance with § 170.560.

(1) *Noncompliance notification.* If the National Coordinator obtains reliable evidence that an ONC-ACB may no longer be in compliance with § 170.560, the National Coordinator will issue a noncompliance notification with reasons for the notification to the ONC-ACB requesting that the ONC-ACB respond to the alleged violation and correct the violation, if applicable.

(2) *Opportunity to become compliant.* After receipt of a noncompliance notification, an ONC-ACB is permitted up to 30 days to submit a written response and accompanying documentation that demonstrates that no violation occurred or that the alleged violation has been corrected.

(i) If the ONC-ACB submits a response, the National Coordinator is permitted up to 30 days from the time the response is received to evaluate the response and reach a decision. The National Coordinator may, if necessary, request additional information from the ONC-ACB during this time period.

(ii) If the National Coordinator determines that no violation occurred or that the violation has been sufficiently corrected, the National Coordinator will issue a memo to the ONC-ACB confirming this determination.

(iii) If the National Coordinator determines that the ONC-ACB failed to demonstrate that no violation occurred or to correct the area(s) of non-compliance identified under paragraph (b)(1) of this section within 30 days of receipt of the noncompliance notification, then the National Coordinator may propose to revoke the ONC-ACB's status.